

Exhibit 1

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1 1971. So even though I was in a program that would
2 have taken me through Ph.D., I saw no point to it.

3 Q. And how many -- how long did you attend the
4 University of Florida before you dropped out?

5 A. Four years.

6 Q. So you dropped out how close to graduation?

7 A. I've been told I lack about four credits.

8 Q. Do you have copies of your transcripts from
9 the University of Florida?

10 A. No.

11 Q. What kind of grades did you have?

12 A. B's primarily. I think it was a B average.

13 Q. Do you know what your grade point average
14 was at the time you dropped out?

15 A. I think it was about three one, 3.1, but
16 that's memory from 40 years ago.

17 Q. All right. And do you have any other formal
18 education?

19 A. I attend training programs for my field, but
20 I don't know if you would consider that formal or
21 semi-formal.

22 Q. Like continuing education --

23 A. That's correct.

24 Q. -- for, like, certain certifications or --

25 A. That's correct.

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1 start thinking about it.

2 Q. And when you say reverse engineering,
3 relating to what?

4 A. I solve problems for companies. For
5 instance, when a tobacco company was having a problem
6 on their productions for high-rate machines making
7 cigarettes, I came up with new designs for several
8 parts of their machines that could be able to function
9 at production rates of up to 18,000 units per minute.

10 Q. Have your expert opinions ever been excluded
11 by a court, to your knowledge?

12 A. To my knowledge, never.

13 Q. Have you ever not been qualified as an
14 expert when you were proffered as an expert in any
15 case, to your knowledge?

16 A. I have always been accepted as an expert in
17 every single case that I have ever been retained on
18 where that question came up.

19 Q. All right. And what is your education,
20 experience, or training that, in your view, qualifies
21 you as an expert on the firearms and ballistics topics
22 that you've got on your resume?

23 A. That is a very broad cut. Basically, I have
24 40 years' experience in this field, more than 40. To
25 be specific, I have 44 years' experience in the field.

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1 I was first licensed as a gunsmith when I
2 turned 21, and I had been working as an apprentice
3 before that. I have been in the firearms field my
4 entire life, I should say my entire business life; and
5 that experience, since there are no degrees in
6 gunsmithing and there are no degrees in firearms
7 technology, this field is entirely experience based.

8 Q. So no formal education in the area of these
9 firearms topics, right?

10 A. Obliquely, yes, there is formal training
11 because if I didn't have the math skills, the
12 chemistry skills, the materials skills, I wouldn't
13 have been able to do my job in the firearms field.

14 Q. You're talking about general engineering
15 principles, right?

16 A. That's correct.

17 Q. Nothing specific to firearms, though?

18 A. There is no specific training for firearms.

19 Q. With whom did you apprentice as a gunsmith?

20 A. It was a small hardware store in
21 Gainesville, Florida, and I worked there part time
22 when I was a student, and I'd have to remember the
23 name. I just don't remember it right offhand.

24 Q. Did the hardware store make guns?

25 A. No. Repaired.

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1 Q. And what does a gunsmith mean?

2 A. Someone who -- in my definition, it's
3 someone who repairs, modifies, upgrades a firearm.

4 Q. Have you ever made a gun for sale to the
5 public?

6 A. No.

7 Q. Have you ever made a gun, period?

8 A. Yes.

9 Q. Prototype?

10 A. Prototype.

11 Q. Tell me about that.

12 A. I invented the polymer firearm. Had four
13 patents on it. Of course, I was curious would it
14 work. General Electric was nice enough to supply me
15 with some raw material, which I modified and used some
16 of the things that I had in my patent, and I went to
17 the range and went to shoot it. That would be an
18 example --

19 Q. Did you ever attempt to --

20 A. -- as I testified to Congress on that.

21 Q. This would have been in the 1980s?

22 A. That's correct.

23 Q. And that had to do with airport security
24 issues?

25 A. That was a separate issue.

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1 Q. Okay.

2 A. One of the things that I determined when I
3 invented the plastic gun was the corollary that it
4 could be used by nefarious people, and so I
5 immediately donated to public domain my patent on how
6 to make polymer weapons observable on machines like
7 airport detectors of different types and I testified
8 to Congress and also lobbied heavily for a law that
9 would regulate firearms so that they would have to be
10 identifiable.

11 Q. And how did you make your polymer prototype
12 handgun identifiable by weapon detection devices?

13 A. I worked with a professor at Harvard by the
14 name of Paul Horowitz. We came up with ten different
15 ways to do it, and that is in the public domain,
16 everything from adding chemicals to the polymer
17 structure to make them look X-ray opaque to adding
18 chips to basically make them passive generators of a
19 signal so that they could be identified, and I caught
20 hell from NRA about that.

21 Q. You said that the airport security issue was
22 separate from the time you were actually referring to
23 where you testified to Congress. So tell me --

24 A. No, no, no, no, no.

25 Q. Okay.

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1 of ten feet could not be distinguished from a genuine
2 firearm and that the teenager that was holding it was
3 killed by a police officer because he didn't react
4 properly. He said, "But it's a toy, officer," and the
5 officer shot him.

6 Q. And so ---

7 A. And by the way, in that particular case the
8 officer was at the scene of a dwelling area for a
9 different purpose. He just came across the child who
10 was plinking with his cousin using BB's.

11 Q. Were your opinions critical of the police
12 officer as well as the product manufacturer?

13 A. No. Police officer did his job. There was
14 no way he could distinguish that it wasn't a real gun.

15 Q. And did that case go to verdict?

16 A. I don't know.

17 Q. You don't know the outcome?

18 A. I don't know the outcome. I testified after
19 the chief of police of Detroit and then we both left
20 town.

21 Q. Have you ever been retained as an expert or
22 even a consulting expert in a case relating to a
23 holster?

24 A. Obliquely when I was with the Casselberry,
25 Florida, Police Department as a range officer and

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1 firearm training officer, I had to advise on holsters.

2 So I guess you could say that that was an expert
3 retainment of sorts.

4 Q. When was that?

5 A. That was in the 1970s.

6 Q. And you say you were retained to advise on
7 holsters?

8 A. I said that I was the firearms training
9 officer and range officer, and part of my duties was
10 to advise on anything -- any equipment dealing with
11 firearms, and holsters, of course, is an important
12 piece of equipment for police officers.

13 Q. So as part of your job as a firearms
14 training officer and range officer for the Casselberry
15 Police Department in the 1970s, you would have
16 generally had conversations with people about handguns
17 and holsters?

18 A. Oh, yes.

19 Q. Anything specific come to mind?

20 A. Just general. I've dealt with holsters
21 basically my entire career because it's rare to see a
22 handgun not make it to a holster.

23 Q. Other than the general advice that you might
24 have given as the firearms training and range officer
25 in the 1970s, are there any other occasions where you

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1 were paid to give somebody your expert opinion on a
2 holster?

3 A. I'm taking your statement as paid meaning
4 that I received remuneration in one way or another; am
5 I correct on that?

6 Q. Retained.

7 A. Well, you said paid.

8 Q. Yeah.

9 A. Okay. So retail sales would have paid me a
10 profit every time I sold a holster and handgun
11 combination or singly. I've done that over the years
12 countless times. I even -- in my retail store, when I
13 had one, I even used to sell Safariland's predecessor
14 Bianchi's holsters.

15 I've taught about the combination of
16 handguns and holsters at Seminole Community College,
17 now Seminole State College, when I had my course on
18 gunsmithing there; the same thing at Santa Fe Junior
19 College, now Santa Fe State College, when I had my
20 course there. So those are instances where I would be
21 paid for my knowledge about holsters.

22 Q. Okay. Tell me about what your -- the name
23 of your resale -- retail store and where it was.

24 A. It was called D. Byron Gunsmith and it was
25 located in Casselberry, Florida, and that was the

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1 a gun store would carry and sell.

2 Q. Okay. And was that a company that was
3 incorporated? Was it a sole proprietorship?

4 A. It was a partnership. And our primary
5 clientele or -- even though it was the general public,
6 most of our business came from police, and we were --
7 we were even the repair depot for the Orlando Police
8 Department.

9 Q. All right. So you sold new and used
10 handguns. What other types of products did that store
11 sell?

12 A. Reloading supplies, ammunition, holsters,
13 accessories, cases, virtually anything that had to do
14 with firearms for the public and primarily for law
15 enforcement use.

16 Q. And in addition to the sale of those goods,
17 what other business did the store do, if any?

18 A. Well, gunsmithing encompasses an awful lot.
19 We did a lot of firearms customization. We built the
20 sniper rifles for many police departments around here,
21 as an example. I didn't consider that to be a
22 manufactured firearm, for the question earlier,
23 because I want to differentiate. That was a modified
24 firearm.

25 Q. Okay. So you were in the business of

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1 carriers for firearms. That's a totally separate
2 issue.

3 Q. But you didn't make them, did you?

4 A. I don't know that my company didn't.

5 Q. You didn't?

6 A. I personally did not.

7 Q. So in answer to my question of were you
8 certified in holster design, the answer is no, right?

9 A. But just to be clear, I don't know of any
10 certification body that would certify it.

11 Q. Okay.

12 A. So even if I wanted to make and design a
13 holster from scratch, I don't know who would certify
14 it.

15 Q. And you've never tried to make a holster
16 from scratch?

17 A. Yes, I have.

18 Q. Okay.

19 A. I worked with Avanti Holster, which was a
20 small startup, in advising them on a very unusual type
21 of shoulder holster -- and this, once again, goes back
22 to the '70s -- that was extremely flat and made for
23 small-frame revolvers; and unlike other shoulder
24 holsters, it had a single elastic band that retained
25 it in place rather than a series of either

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1 A. The NRA ones, I don't believe they expire.
2 I don't know about the state. I'll have to look that
3 up. But that's something I can look up.

4 Q. You specifically, you know, mentioned that
5 you're certified as an instructor as to different
6 types of firearms, right?

7 A. That's correct.

8 Q. You mentioned that firearms go in holsters,
9 right?

10 A. Handguns do.

11 Q. Is there any particular part of your
12 training to become certified as a firearms instructor
13 relating to holsters specifically?

14 A. As I said, most firearms training in the
15 United States is ad hoc. I received mine through the
16 police departments and also as -- my experience as a
17 gun store owner and someone who sells holsters and
18 someone who uses them. So, I mean, experience is the
19 primary teacher.

20 Q. Your certification as an instructor relates
21 to the firearms themselves, though, not to holsters,
22 right?

23 A. Split that off. You have the NRA
24 certifications, which is primarily firearms.

25 Q. Okay.

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1 A. Of course.

2 Q. And particularly for a user of this holster
3 that's in law enforcement, is it important to be able
4 to remove and reholster the handgun without having to
5 look down at the holster?

6 A. Yes.

7 Q. And would you agree that if your design
8 interferes with the process of removing or
9 reholstering the handgun that that would be a problem?

10 A. If my design would interfere, yes; but, my
11 design won't.

12 Q. Okay. What analysis have you done to
13 confirm that it will not?

14 A. I've thought about it. I have a very good
15 mind for that sort of thing and, as I said, that's
16 what I do on the manufacturing side or design side for
17 other products.

18 Q. And do you have specifically in mind, you
19 know, what the additional mechanism, the gear that you
20 refer to, you know, how that would function so that
21 when you rotate the SLS strap one direction that gear
22 causes your proposed strap to rotate the other
23 direction?

24 A. Yes.

25 Q. Can you describe that for me in a way

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1 A. That's correct.

2 Q. Have you actually performed any calculations
3 on those issues?

4 A. Mentally, yes.

5 Q. Okay. Other than in your head?

6 A. No. I've written nothing down.

7 Q. Okay.

8 A. However, when I had Vintage Industries, I
9 used to quote an awful lot of tooling, and in that
10 business if you mess up on a quotation for tooling,
11 you've destroyed your profit margin.

12 Q. Well, have you tried to determine, you know,
13 what materials you want to use, what they would cost,
14 who would you -- whom you would buy them from, you
15 know, how much of that you would have to buy and, you
16 know, how many units that could be used for and what
17 the labor would be associated with it and what the
18 cost per unit is?

19 A. That and other hidden costs, yes.

20 Q. You've done all that in your head?

21 A. In my head.

22 Q. Okay. But have you contacted anybody to --

23 A. No.

24 Q. -- determine what the cost of supplies would
25 be?

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1 A. No, it does not.

2 Q. So it's fair to say that?

3 A. Yes, it is fair to say that.

4 Q. All right. You talked earlier about Cosmi
5 Corporation?

6 A. Yes.

7 Q. Was that a company that you did business
8 with or that you were employed by?

9 A. Both. I started out as an independent
10 vendor supplying them software and then they hired me
11 as -- I had a lot of titles. Director of publishing
12 administration, I think, was my last one.

13 Q. Okay. And your work there related to --

14 A. Software.

15 Q. -- computer software?

16 A. Software.

17 Q. Is it fair to say that the work of that
18 company does not relate to weapon retention or
19 holsters?

20 A. It has nothing to do with weapon retention
21 or holsters.

22 Q. Have you worked with a company named Vintage
23 Industries, Inc.?

24 A. Yes, I have.

25 Q. What business is that company in?

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1 A. That company was an injection molding and
2 tool and die making company.

3 Q. And what was your job at that company?

4 A. Chairman and CTO.

5 Q. And did that company make products --

6 A. Yes, it did.

7 Q. -- for commercial sale?

8 A. Yes, it did.

9 Q. And what products did it make?

10 A. Mostly firearm-related products. Everything
11 from grips and stocks to sights and components.

12 Q. And any particular types of firearms?

13 A. Everything from handguns to components for
14 shoulder-fired missiles.

15 Q. And is that company still in operation?

16 A. I'm not sure.

17 Q. Okay. Are you still associated with that
18 company?

19 A. No, sir.

20 Q. When did you cease being employed by that
21 company?

22 A. We sold out, I think it was around 2001,
23 2002.

24 Q. Who did you sell to?

25 A. I think their name was Ogle Dana Solutions

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1 written test --

2 A. Yes.

3 Q. -- and some type of sign-off from another
4 instructor?

5 A. Yes.

6 Q. Your teaching on law enforcement gunsmithing
7 and ballistics, we already talked about that. That
8 would have been in the 1970s, correct?

9 A. That's right.

10 Q. You've never been certified as an instructor
11 in holster design, have you?

12 A. Only insofar as the design of the holster
13 impacted what I was instructing.

14 Q. You're going back to the concealed weapons
15 permit and how they fit together?

16 A. And also in general as a police firearms
17 instructor and range officer.

18 Q. And -- but you've never been certified as an
19 instructor in how to design a holster?

20 A. If you mean like down to the blueprints and
21 how to make everything, there's two components to that
22 question. One is certification. And, as I said, I
23 don't know of any certification body. The second
24 thing is, how to make. I had a plastic injection
25 molding company. We can make anything, including

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1 A. Some yes, some no. I've got most of the
2 names of the companies that have made holsters as well
3 as a lot of other accessories for firearms. I do not
4 have a good compendium of their product line.

5 Q. If the information in the database related
6 to holster manufacturers is something that we wanted
7 to have a look at for purposes of this case only,
8 would that be something that you would allow?

9 A. Sure.

10 Q. Okay.

11 A. As long as we have some sort of agreement
12 that it can't be published or redistributed.

13 Q. Okay. Is there any information in that
14 database that you have consulted or reviewed in
15 relation to your work in this case?

16 A. No.

17 Q. Your resume says that you designed and
18 manufactured component parts used in original
19 production firearms for a number of companies, right?

20 A. That's correct.

21 Q. One of those is Colt. What have you
22 designed and manufactured for Colt?

23 A. Oh, let's see. Starting with grips, when
24 they reissued the Detective Special, I actually did
25 the engraving for the molds for that and also designed

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1 the grip itself.

2 The sights on the revolvers, most people
3 thought they were metal. They were actually made out
4 of plastic. We made them. I designed those.

5 They were having a problem during the
6 assembly of Colt firearms where the people doing the
7 hand polishing would over-polish, and I constructed
8 destructive jigs so that they would protect the steel
9 part of the firearm and destroy the jig instead of
10 harming production stuff. So I did that for their
11 manufacturing process.

12 What else did we do for Colt? We did grips
13 for a lot of their different model guns. We made
14 different manufacturing setups for them similar to the
15 polishing jigs. There are probably other things that
16 we made for Colt.

17 Q. And which company were you working for when
18 you did that?

19 A. Vintage.

20 Q. And all the design and manufacture of
21 component parts for original production firearms would
22 have been through your work for Vintage?

23 A. That's right.

24 Q. Okay.

25 A. That's where we actually made production

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1 parts that went into the guns that were sold over the
2 counter.

3 Q. Similarly, can you give me an overview of
4 the types of parts that you designed and manufactured
5 for Winchester?

6 A. Sure. Stocks and butt plates, grip caps.
7 Did we do anything else for Winchester? I think we
8 made some internal components that went into their
9 lever-action rifle, but I have to look up -- I'd have
10 to look that up. I -- I'm not sure if it was
11 Winchester or one of their competitors or both, but I
12 know that we made internal components for lever-action
13 rifles.

14 Q. Tell me about the component parts that you
15 designed and manufactured for Savage.

16 A. Oh, let's see. The stocks for shotguns as
17 well as rifles, butt plates, grip caps. They had a
18 pistol, basically a competition and hunting
19 single-shot pistol, and I think they had a magazine
20 version also, and that needed a very specialized kind
21 of stock, and I helped design that as well as
22 manufacture it. That was the primary stuff for
23 Savage.

24 Q. All right. And what about -- same question
25 as to Mossberg.

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1 A. Mossberg: Stocks, butt plates, grip caps.

2 I think we also made some internal parts for their
3 shotgun, but I'd have to go back and look.

4 Q. Okay. What about -- same question as to
5 Marlin.

6 A. Same thing, but I'm not sure that we made
7 any internal parts for them.

8 Q. And then you say that you designed and
9 manufactured component parts for original production
10 firearms for other companies that are not specifically
11 named. Would those have been the same types of parts
12 that you've mentioned for these, the specific entities
13 that I just asked you about?

14 A. Similar. Like, for instance, for Smith &
15 Wesson and then later for Charter Arms, I designed
16 ergonomic grips that went on their firearms.

17 Q. Okay. Have you ever published, written a
18 published work, about --

19 A. I'm sorry. What was that last word?

20 Q. Work.

21 A. Oh, work. Okay.

22 Q. -- about holster design, how to design a
23 holster?

24 A. No.

25 Q. Have you ever written a published work about

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1 I'm always asked questions about safety of the
2 equipment, which is why I jumped up and down when I
3 found out what this person was doing with 3D printers.

4 I have a very strong feeling about making
5 sure that things do what they're supposed to do and
6 not do what they shouldn't do, whether it's holsters
7 or firearms or something in between.

8 Since I've been involved in manufacturing,
9 like for the last 30 years, to me, I look at all of
10 the firearm accessories which have to work together
11 and I look at it as a whole entity and I look at it
12 also in terms of how do you make the stuff and what
13 are better ways to make things. I know that was
14 somewhat rounded out, but I hope it was responsive.

15 Q. Have you ever testified as an expert
16 regarding holster design or holster warnings before
17 this case?

18 A. No, I haven't.

19 Q. Have you ever been retained as an expert
20 witness on the topics of holster design or holster
21 warnings before this case?

22 A. Yes. I've had in my career a couple of
23 cases of accidental shootings that were related to
24 holsters and their design, and in both of those cases
25 my determination was that the accidental shooting was

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1 the fault of the user, not the holster design.

2 Q. Can you tell me as much as you can recall
3 about these couple of accidental shootings cases?

4 A. Yes. I was called by a plaintiff attorney
5 on one police officer that shot himself in the leg,
6 and he -- the attorney wanted to say that it was the
7 fault of the holster design. I looked at it and I
8 could not determine any problem with the design, and
9 finally in questioning the plaintiff, during my
10 background check, I found that when he holstered the
11 firearm, his finger was within the trigger guard, and
12 so the holster caught the leading edge of his finger
13 which, of course, discharged the firearm. So I found
14 that that was a training issue and the fault of the
15 person, not the fault of the holster.

16 Q. Before you go to the second one, can I ask
17 you a few questions about that one?

18 A. Sure.

19 Q. Do you remember approximately when it was
20 that you consulted on that case?

21 A. That was during 1980s.

22 Q. Do you remember what type of handgun and
23 holster were involved?

24 A. I believe it was a Smith & Wesson revolver,
25 and I do not remember which holster manufacturer it

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1 was.

2 Q. Okay. And was that a lawsuit that was
3 brought or were you consulted by the plaintiff's
4 attorney to determine whether there was a basis for a
5 lawsuit?

6 A. I was consulted to see whether there was a
7 basis for a lawsuit.

8 Q. And your opinion was no?

9 A. That's correct.

10 Q. Do you know whether a lawsuit was ultimately
11 brought or not?

12 A. No, I don't.

13 Q. Do you remember the name of the attorney?

14 A. No, I don't.

15 Q. Do you recall what the plaintiff's criticism
16 of the holster was?

17 A. No, I don't. I was asked a general
18 question, why did this accident occur and was it the
19 fault of the holster.

20 Q. So no real criticism was articulated, to
21 your recollection?

22 A. No.

23 Q. And your determination was that there was no
24 defect in the holster --

25 A. That's correct.

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1 Q. -- but that the user was just not following
2 proper procedures?

3 A. That's correct.

4 Q. All right. And then you said there was one
5 more case. You said there were a couple of accidental
6 shootings and you talked about one of them. Can you
7 tell me about the other that you recall?

8 A. Actually, there were two. I was thinking
9 about it as we were talking. Another one was a police
10 department contacted me to determine the reason that
11 one of their officers had been shot, and I came to the
12 same conclusion as the case that I just related.

13 There was another case in Georgia, which was
14 also an accidental shooting, and I was asked what
15 caused it. My recollection on that case is that the
16 holster was at fault but it was a military surplus
17 firearm and a military surplus holster and they were
18 not matched; and so, when they put the firearm in the
19 holster, the design of the holster, since it was not
20 matched to the firearm that they put it in, caused it
21 to discharge.

22 Q. Something about the way that they fit
23 together caused the holster to impinge on the trigger?

24 A. That's correct. But, once again, it was not
25 the fault of the holster, firearm, or anybody other

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1 than the person that put them two -- the two items
2 together.

3 Q. And in this Georgia case who retained you?

4 A. It was similar to the first case. An
5 attorney called me and --

6 (Cell phone interruption.)

7 THE WITNESS: I apologize.

8 MR. KUPPENS: Let's take a break. We're off
9 the record.

10 (Brief break.)

11 MR. KUPPENS: Back on the record.

12 BY MR. KUPPENS:

13 Q. So Mr. Byron, we were talking about the -- I
14 think you've identified three, now, cases in which you
15 were consulted that were related to holster design,
16 and you've talked about the plaintiff's attorney in
17 the 1980s who asked you to evaluate a case in which a
18 police officer shot himself in the leg and you found
19 no defect with the holster, correct?

20 A. That's correct.

21 Q. And then you said there was a police
22 department that asked you why an officer shot himself
23 and to evaluate what happened, and similarly, you
24 found that it was user error, you found no defect with
25 the holster?

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1 A. That's correct.

2 Q. What police department was that?

3 A. I have been trying to remember. I've got to
4 probably go back into the archive because it was about
5 20 years ago.

6 Q. So that would have been in the '80s also?

7 A. I think it was the late '80s.

8 Q. Okay. And that was a situation where you
9 would have just given your findings in a verbal
10 download?

11 A. That's correct.

12 Q. No written report on that?

13 A. No.

14 Q. And then the Georgia case, who is it that
15 you consulted with on that?

16 A. Once again, that was in the early '90s. It
17 was an attorney who was interested in, of course,
18 whether or not he had a suit, and my opinion also in
19 that case was that he had no suit.

20 Q. And, to your knowledge, none of those three
21 matters involved actual lawsuits?

22 A. That's correct.

23 Q. All right. So we started down this line of
24 questioning with me trying to identify matters in
25 which you have offered opinions that relate to holster

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1 design or holster warnings, right?

2 A. That's right.

3 Q. And we talked about that this is the first
4 case, this case we're here for today is the first case
5 in which you've testified as an expert on those
6 topics, correct?

7 A. As I'm doing right now, yes.

8 Q. And I asked you about others in which you
9 may have been consulted, and you've identified the
10 three cases that we just discussed, right?

11 A. That's correct.

12 Q. Are there any others that come to mind?

13 A. Not that come to mind. That doesn't mean
14 there might not have been others, but I don't believe
15 that there were any other items I was consulted on in
16 a legal sense about that was significant.

17 Q. How long have you been in the business of
18 consulting as an expert witness?

19 A. Probably about 35 years.

20 Q. And how many matters would you estimate
21 you've worked on over that time?

22 A. Probably about 70 or 80.

23 Q. And how many times have you testified at a
24 deposition as an expert witness, in your estimation?

25 A. This is an estimate. Probably about 35 or